

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT : Kimle, et al.  
SERIAL NO : 09/335,648  
FILED : June 18, 1999  
TITLE : METHOD OF ELECTRONICALLY INITIATING AND MANAGING  
AGRICULTURAL PRODUCTION CONTRACTS  
Grp./A.U. : 2164  
Examiner : Kyle, C.  
Conf. No. : 6709  
Docket No. : P03566US0

**THIRD SUPPLEMENTAL DECLARATION OF PRIOR INVENTION IN THE UNITED  
STATES OR IN A NAFTA OR WTO MEMBER COUNTRY TO OVERCOME CITED  
PATENT OR PUBLICATION  
(37 CFR 1.131)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**A. PURPOSE OF DECLARATION**

1. This declaration is to supplement the August 27, 2001 Declaration filed and of record in this application.
2. The persons making this Declaration are inventors Kevin L. Kimle, David R. Krog, Alan G. Schmitz and Reynold Harder, and E-Markets, Inc., the party in interest, by its President and Chief Operating Officer, Scott Cavey.

**B. FACTS AND DOCUMENTARY EVIDENCE**

3. The following table supplements the previous showing of Applicants' diligence relative to the invention of this application, by setting forth additional specific events that occurred in the development of the invention from the fall of 1996 to the summer of 1997. These events all relate to the efforts of Applicants and the

owner of the present application to move forward to reduce the invention to practice. Documents corroborating the events are attached to this declaration at the indicated Exhibits

Date	Meeting	Receipt	Exh./Pg.
October 1, 1996	Kilme and Krog met with Professor Kendrick of University of Nebraska. Meeting in Lincoln, NE. Discussed our ideas and business plan. After meeting went to Lazlo's Brewery & Grill in Lincoln. That evening we met Charlie Trauger in Omaha. Stayed in Omaha that night at Super 8. Next day drove to Gothenburg, NE to meet with Scott Friedlund of Frito-Lay.	Calendar, Omaha Motel Receipt, Meal Receipt	F1, F2, F3
October 2, 1996	Krog and Kimle met with Scott Friedlund of Frito-Lay in Gothenburg, NE. Discussed Frito-Lay corn sourcing and contracting needs and our E-Markets ideas. Took Scott to eat local restaurant.	Motel Receipt	F3
December 3, 1996	Kimle and Krog met with Sue Crum and Joe Lebeda of Pioneer. Met at Pioneer office in West Des Moines (Waterford Building conference Room #3). Discussed our ideas for grain sourcing and contracting. Meeting lasted nearly three hours.	Calendar, Lunch w/DuPont Receipt	G1
December 3, 1996	Kimle and Krog met with Dan Hammes and Tom Adler of DuPont at Applebee's restaurant in West Des Moines. Described E-Markets and our grain sourcing and contracting solutions. Interest was high and it was decided to have another meeting that included more DuPont folks including Dick Reasons, head of DuPont Quality Grains.	Lunch Receipt	G1
February 6, 1997	Kimle, Harder, Ringlee, and Krog met with group of DuPont Quality Grain folks including Hammes, Adler, Reasons, and others at the DQG office	Appointment book	H1

	in Urbandale, IA. Talked about E-Markers, our solutions, and showed a prototype application for contracting their identity-preserved products. Followed up meeting with a proposal to DuPont on February 20.		
February 17, 1997	Discussions with Stine Seed	Calendar	H2
March 5, 1997	Harvest States meeting w/Jim Tibbetts	Calendar	I1
March 6, 1997	Kimle, Harder, and Krog meeting with DQG at DuPont office in Urbandale to discuss proposal.	Calendar	I1
March 31, 1997	Meet w/Ed McMillan ABG business planning	Calendar and meal receipt	I2-I3
April 4, 1997	Project proposal meeting with DuPont at Urbandale office.	Calendar	I2
April 11, 1997	Meeting at DuPont Urbandale office with Dan Hammes to discuss project proposal.	Calendar	J1
April 21, 1997	Meeting with DQG Dan Dyer to discuss system	Calendar/mtg notes	J2, J3
May 6, 1997	Project meeting at DuPont Urbandale office with Dan Dyer	Calendar and receipt	K1, K2
May 13, 1997	Project meeting about Continental Grain w/Dale Jackson, Chris Ludwig, and Terry Rooney in Urbandale.	Calendar	K3
May 13, 1997	Project meeting with Dave Stamp and Doug Krog of Croplan Genetics at E-Markets office in Ames.	Calendar	K3
May 13, 1997	Project meeting with Tom Adler of DQG in E-Markets Ames office.	Calendar	K3
May 19, 1997	Project meeting with Randy Osterbur in Quincy, IL.	Hotel and Meal receipt and Calendar	K4, K5, K6
May 20, 1997	Project meeting with Bill Wyffels, Bonnie Bell, Robert O'Rourke and others of Wyffels Hybrids at the Wyffels office in Atkinson, IL.	Calendar	K4
June 10, 1997	Project meeting with Tom Adler and Pat Hiliard of DQG at DuPont office in Urbandale, IA	Calendar	L1
June 19, 1997	Meeting with Blue Valley Co-op, John Malin	Meal Receipt	L2
June 23,	Project meeting with Tom Adler and Pat	Calendar	L3

1997	Hilliard of DQG.		
June 26, 1997	Meeting with DQG folks and 13 DuPont CPCs at DuPont Urbandale office to demonstrate on-line contracting functionality.	Calendar	L3

### C. TIME OF PRESENTATION OF THE DECLARATION

4. This declaration is submitted after final rejection.

### D. DECLARATION

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

### F. SIGNATURE(S)

6.

#### Inventor(s)

Full name of first inventor Kevin Kimle

Inventor's Signature Kevin Kimle

Date 2/7/02 Country of Citizenship U.S.A.

Residence \_\_\_\_\_

Post Office Address 3222 Lettie St.

Aws IA 50014

Signature of Person Signing

Scott Cavey

Title of Person Signing

President and COO

Date 2-7-02

Name of Assignee

SCOTT CAVEY

Post Office Address

1606 Golden Aspen Dr Suite 108

Ames IA 50014

Attachments to Declaration: Exhibits F-L

# EXHIBIT F

SEPTEMBER/OCTOBER

Week 40

30 Monday

27/4/92

1 Tuesday

2 Wednesday

3 Thursday

*Friday*

1996

OCTOBER

27/8/88

Friday 4

CLB

*knock John Hanson / Tom B. North End Diner*

Saturday 5

Sunday 6

OCTOBER

S M T W T F S

1 2 3 4 5  
6 7 8 9 10 11 12  
13 14 15 16 17 18 19  
20 21 22 23 24 25 26  
27 28 29 30 31

NOVEMBER

S M T W T F S

1 2  
3 4 5 6 7 8 9  
10 11 12 13 14 15 16  
17 18 19 20 21 22 23  
24 25 26 27 28 29 30

*E. Mabeat trip  
w/ Kevin K...*

*Wine of NE mty*

LEZIO'S BREWERY & GRILL

LINCOLN, NE

06

111726263018000

DOCT 01, 96

DAVID R KROG

SALE

ROC #

TERMINAL #

8451

FOOD AND BEVERAGE

BRSE AMOUNT

\$13.31

TIP AMOUNT

2.00

TOTAL

15.31

I AGREE TO PAY ABOVE TOTAL AMOUNT  
ACCORDING TO CARD ISSUER AGREEMENT

(MERCHANT AGREEMENT IF CREDIT HOLDER)

TOP COPY-MERCHANT

BOTTOM COPY-CUSTOMER

*mty w/ Kevin Keady  
+ Charlie*

GRINWICH

1800 N. LORNE ST.

ORLA

NE 68154

DATE: 10/02/96

SERVER: BOBZ

REF: 4734 BCHK: 14

CD TYPE: VI

TR TYPE: PM

AMOUNT: \$24.03

TIP:

2.00

TOTAL:

AMOUNT DEDUCT

0.00

I AGREE TO PAY ABOVE TOTAL AMOUNT  
ACCORDING TO CARD ISSUER AGREEMENT  
(MERCHANT AGREEMENT IF CREDIT HOLDER)

DATE: 10/02/96

TOP COPY-MERCHANT BOTTOM COPY-CUSTOMER



Unit of NE Professor Mtg &  
Frito Lay Mtg.

Dave Kroog  
 (PLEASE PRINT)  
 46 Waterbury Circle  
 MN 55312 9-1-76  
 STATE ZIP DATE  
 6703  
 330  
 Name  
 Room  
 Days Occupied  
 S M T W T F S  
 1  
 Rate 47.68  
 Tax 7.71  
 Total 55.39  
 Misc. 55.39  
 Total 55.39  
 Amt. Pd. 55.39  
 Clerk  
 Signature  
 K5

SUPER 8 MOTELS & RV  
 11410 WEST DOOSE ROAD  
 MINNAPOLIS, MN 55154-2512  
 612-442-8845  
 5017689010790162

DATE 10/01/96  
 TIME 09:44 PM  
 ROOM 6703

ITEM 005 VHS SALE  
 PRICE 10.00  
 TAX 1.00  
 TOTAL 11.00

ARRIVAL 10/01/96  
 DEPART 10/01/96  
 TOTAL \$55.39

I HEREBY TO PAY ABOVE TOTAL AMOUNT  
 ACCORDING TO CARD ISSUER AGREEMENT  
 WITHOUT AGREEMENT IF CREDIT CARD  
 NUMBER 1234 5678  
 TOP OF CARD-RENTAL WITH CONFIRMATION

# **EXHIBIT G**

DECEMBER

Week 49

1996

2 Monday

337/29

341/25

3 Tuesday

5 LG

9:00 Crum + Lebeda #13

noon Dan Hammes

4 Wednesday

5 Thursday

DEC

3 4  
10 11  
17 18  
24 25  
31

lunch w/ Kevin &  
D. R. D. *[Signature]*

CHECK # 1105  
TABLE # 55  
DATE 12/03/96  
TIME 12:56

Items: TIR QUVEY

SEATH ITEMS ORDERED AMOUNT  
1 CONES 1.30  
SOUP & 1/2 CLUB 5.29  
SUBTOTAL 6.59  
TAX 0.33  
6.92

2 CONES 1.30  
CHZ BURG 4.29  
HUFFINS 1.25  
SUBTOTAL 6.84  
TAX 0.34  
7.18

3 CONES 1.30  
SANTA FE 5.99  
SUBTOTAL 7.29  
TAX 0.34  
7.65

4 CONES 1.30  
BECK CHIP SALAD 6.49  
SUBTOTAL 7.79  
TAX 0.37  
8.16  
TOTAL 29.93

SUBTOTAL 28.51  
TAX 1.42  
TOTAL 29.93  
4 4.53

SPR FREE'S NEIGHBORHOOD GUTTER BAR  
11410 FOREST AVENUE 3450  
CLINE, IA 50325  
(515) 222 9474  
OUR MENU IS AVAILABLE TO 50 1111

Du Pont / Pioneer Mts.

# **EXHIBIT H**

FEBRUARY 1997

WEEK 6

3 February

04/97

4

5:15 UA  
11:57 ARRIVAL

5

6

12:00 D.P.T

FEBRUARY 1997

7

05/97

• NM

8

9

FEBRUARY

MARCH

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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H 1/2

FEBRUARY 1997

WEEK 8

17 MARCH, Sunday, 1997

49/217

Model 1000

18

1000 adds to 1500

from 1000 adds to 1500

from 1000 adds to 1500

from 1000 adds to 1500

from 1000

19

9:30 1992 Army and A

1000 adds to 1500

1992

1000 adds to 1500

20

1000 adds to 1500

1000 adds to 1500

FEBRUARY 1997

21

50/219

22

51

23

52

February

March

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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# EXHIBIT I

MARCH 1997

WEEK 10

✓ 3 MARCH

24/2003

✓ 4 10:30  
16 9:30 Pleasant slides  
Airport Holiday Inn  
Jim T. Webb

✓ 5 10:30  
10 5:00 E-Market only

✓ 6 10:30  
18 12:00 Duffert

MARCH 1997

7. MARCH

24/2003

✓ 10:00 drop road @ Centert  
Market - Ames

3:40

✓ 10:12 E-Market only w/ John Stiles

9. MARCH

MARCH

APRIL

1	2	3	4	5	6	7	8	9	10	11	12
13	14	15	16	17	18	19	20	21	22	23	24
25	26	27	28	29	30	31					



MARCH/APRIL 1997

WEEK 14

31 MARCH/ APRIL 1997

90/275

10 7.30 E.D.M. Holiday Inn 210

Good Job - Johnson P. 10/15

5.30 Soccer 50/40

10 catch

1 4.30/4.30

10 catch

2 4.30/4.30

12.00 0.1.0.5.7.16.4.14.2

98 To Ames (80mi)

10 catch

3 Thursday

80 To Ames (80mi)

10 catch

APRIL 1997

4 Friday

94/271

180 100 Duford

10 catch

5 Saturday

6 Sunday Easter Sunday

APR							MAY						
1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30						29	30	31				

# EXHIBIT J

APRIL 1997

WEEK 15

7 MARCH

07/08

• N/A

10 11:30 Gordon Gile  
Edison Fieldhouse  
4-6921

Bob Brown TCA

8 1 10:00

10 11:00

10 9:30 Bonds only and Jim Backer  
Conduct Office

9 Wednesday

10 10:00

10:00 DTA only Omaha

5:00 Private (10:00-11:00)

10 10:00

10 10:00

10 11:30 John S. Linn. @ Truys

APRIL 1997

11 10:00

10:00 5:00-6:00  
10:00 5:00-6:00  
10:00 5:00-6:00

10 3:00 Reunited 20th proposed  
Don't 3rd office

12 10:00

13 Sunday

APRIL

May

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

APRIL 1997

WEEK 17

21 Monday

km. local 11/254

16 11:30 D. D. D. D.

22 Tuesday a First Day of Passover (Exodus from Egypt)

FM

10 to contact

80 4:30 to dinner office

23 Wednesday

10 to contact

24 Thursday

APRIL 1997

115/250

25 Friday

Breakfast w/ Andrew

10 11:30 to contact

5:15 to dinner w/ Andrew

26 Saturday

27 Sunday

April

May

6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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52/3

Dan Dyer

4-21-97

## Contracting system

- grower connected w/ elevator
- which seed / variety
- delivery date

[REDACTED]

[REDACTED]

[REDACTED]

SB

- price locking in process is cumbersome
- grower calls [REDACTED]
- [REDACTED] calls elevator to confirm
- [REDACTED]

- look-up contract
- enter " "
- edit " "

enter/edit/search

- Seed co reps have done most contract
- elevators
- DuPont

2/12/97  
Contract

# **EXHIBIT K**



MAY 1997

WEEK 20

12 MONDAY

1347235

11:45

13 TUESDAY

11:45

2:00

6:30

14 WEDNESDAY

9:30

15 THURSDAY

11:45

4:00

16 FRIDAY

04/238

MAY 1997

17 SATURDAY

18 SUNDAY

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31



MAY 1997

WEEK 21

19 MAY 1997

150/225

11:00 leave for IL

12:00 Oshkosh to Quincy IL

to Moline, IL

by 1:15 in afternoon  
- Bill, et al.

21 MAY 1997

8:00 to Ames  
w/ John

22 MAY 1997

10:15 to contact in Springfield  
1:30 Kevin

and David Wilson, Engle

10:50 to contact send 20 to Tim

MAY 1997

23 MAY 1997

140/222

Call Mark Harris

- Call David Wilson

- Call Ellen

20 To Ames

24 MAY 1997

To Chicago Ford & Mully

25 MAY 1997

MAY

1997

4	11	18	25	31	1	8	15	22	29	5	12	19	26	3	10	17	24	31	7
5	12	19	26	3	10	17	24	31	7	14	21	28	4	11	18	25	3	10	17
6	13	20	27	4	11	18	25	3	10	17	24	31	7	14	21	28	4	11	18
7	14	21	28	5	12	19	26	3	10	17	24	31	7	14	21	28	5	12	19
8	15	22	29	6	13	20	27	4	11	18	25	3	10	17	24	31	6	13	20
9	16	23	30	7	14	21	28	5	12	19	26	3	10	17	24	31	7	14	21
10	17	24	31	8	15	22	29	6	13	20	27	4	11	18	25	3	10	17	24
11	18	25	3	9	16	23	30	7	14	21	28	5	12	19	26	3	10	17	24
12	19	26	4	10	17	24	31	8	15	22	29	6	13	20	27	4	11	18	25
13	20	27	5	11	18	25	3	9	16	23	30	7	14	21	28	5	12	19	26
14	21	28	6	12	19	26	4	10	17	24	31	8	15	22	29	6	13	20	27
15	22	29	7	13	20	27	5	11	18	25	3	9	16	23	30	7	14	21	28
16	23	30	8	14	21	28	6	12	19	26	4	10	17	24	31	8	15	22	29
17	24	31	9	15	22	29	7	13	20	27	5	11	18	25	3	9	16	23	30
18	25	3	10	16	23	30	8	14	21	28	6	12	19	26	4	10	17	24	31
19	26	4	11	17	24	31	9	15	22	29	7	13	20	27	5	11	18	25	3
20	27	5	12	18	25	3	10	16	23	30	8	14	21	28	6	12	19	26	4
21	28	6	13	19	26	4	10	17	24	31	9	15	22	29	7	13	20	27	5
22	29	7	14	20	27	5	11	18	25	3	9	16	23	30	8	14	21	28	6
23	30	8	15	21	28	6	12	19	26	4	10	17	24	31	9	15	22	29	7
24	31	9	16	22	29	7	13	20	27	5	11	18	25	3	9	16	23	30	8
25	3	10	17	24	31	8	14	21	28	6	12	19	26	4	10	17	24	31	9
26	4	11	18	25	3	9	16	23	30	7	13	20	27	5	11	18	25	3	9
27	5	12	19	26	4	10	17	24	31	8	14	21	28	6	12	19	26	4	10
28	6	13	20	27	5	11	18	25	3	9	16	23	30	7	13	20	27	5	11
29	7	14	21	28	6	12	19	26	4	10	17	24	31	8	14	21	28	6	12
30	8	15	22	29	7	13	20	27	5	11	18	25	3	9	16	23	30	7	13
31	9	16	23	30	8	14	21	28	6	12	19	26	4	10	17	24	31	8	14



MOBILE  
2705 48th Avenue  
Mobile, IL 31263  
(309) 752-5080

*Pandy Osterbar  
mtg*

TOLL FREE RESERVATIONS (800) 228-2800

**GUEST CHARGES SUMMARY**

Thank you for choosing Fairfield Inn. We hope you enjoyed your stay. If you are not an INNSiders Club member already, fill out an application today. Start enjoying the benefits of club membership like earning free room nights with our SleepFree Awards, Express Check-In, a free USA TODAY each weekday morning, Personal Check Privileges, Spouse Stays Free and many more. We look forward to seeing you at another Fairfield Inn soon!

**Fairfield Inn Staff**

GUEST NAME REYNOLD HARDER

FOLIO 05-0175  
ROOM NUMBER 207  
ROOM TYPE DD  
NO. OF GUESTS 2  
RATE 60.95  
CLERK 108

ARRIVE 05-19-97

DEPART 05/20/97

DATE	DESCRIPTION	CHARGES	CREDITS
05-19-97	LONG DISTANCE #515-277-8128	3.14	
05-19-97	ROOM CHARGE - REGULAR	60.95	
05-19-97	ROOM TAX	3.05	
05-19-97	STATE TAX	3.66	
05-20-97	VISA		70.80

\*\* BALANCE \*\*

Fairfield Inn voted "Best Overall Value" in the 1995 Traveler's Hotel...

THE NEW STANDARD IN ECONOMY LODGING

*K5/6*

Randy Osterbur  
mtg

APPLEBEE'S  
NEIGHBORHOOD GRILL & BAR  
3827 BROADWAY  
QUINCY, IL 62301

USER: [REDACTED]  
DATE: 05-19-97 TIME: 12:54 [REDACTED]

HARDER/REYNOLD R  
[REDACTED]

APPROVAL CODE: [REDACTED]

AMOUNT: 32.92

TIP: 4.00

TOTAL: 36.92

X  
Cardmember agrees to pay total in  
accordance with agreement governing  
use of such card.

\*\* CUSTOMER COPY \*\*

SOME THINGS ARE MADE FOR EACH OTHER

K 6/6

# **EXHIBIT L**

JUNE 1997

WEEK 24

9 Monday

16/07/95

Armed  
call Dave Henning,  
call John Wick,  
and Dave Sharp, left msg to call

10 Tuesday

8:00 Tom Adler, P. Hilland

80:00 To Arms office

11 Wednesday

call Dave Sharp,  
and call Ginnman

12 Thursday

13 Friday

16/07/95

JUNE 1997

14 Saturday

15 Sunday

July

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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chills

CHILLS-0015

06/19/97

11:00

NAME: [REDACTED]

CHARGE AMOUNT: 30.15

TIP AMOUNT: 5.12

TOTAL: 35.27

SIGNATURE

[REDACTED SIGNATURE]

GUEST COPY

THE PEPPERCORN REST  
SOUTH HIGHWAY 15 BOX 29  
SEWARD NE 68434

DATE: 06/19/97

MEMO: [REDACTED]

TERM: 0001

SALLES DRAFT

SERVER: 0015

REF: 0012 BCH: 497

CD TYPE: VI

TR TYPE: PR

AMOUNT: \$21.00

TIP: 2.50

TOTAL: 23.50

[REDACTED]

I AGREE TO PAY ABOVE TOTAL AMOUNT  
ACCORDING TO CARD ISSUER AGREEMENT  
(MERCHANT AGREEMENT IF CREDIT VOUCHER)

THANK YOU!

HAVE A NICE DAY

TOP COPY-MERCHANT BOTTOM COPY-CUSTOMER

L 2/3

JUNE 1997

WEEK 26

23 Monday

7/4/97

Call Bob Neal

12:00 set up photo of  
25 2:00 meet w/ Tom Baker J.P. Hall

24

12:00 3. 10:00 10:00 10:00

To Anne

9:00 from Maren M. Albritton

3:00 to Al. & Cat

25 Wednesday

80 To Anne

9:00 Bob Neal call book

26 Thursday

20 12:45 with 4/10/97 15 CVCs

Call Bob Neal - Hybrid 10:00

Call Bob Neal

Call Bob Neal

Call Bob Neal

JUNE 1997

27 Friday

17/1/97

10:30 leave for Orono

2:00 Orono apt. Serv. mfg

28 Saturday

29 Sunday

June	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
July	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

L 3/3